

“(a) *ESTABLISHMENT.*—There is hereby established an honorary award for the recognition of outstanding and distinguished service by public safety officers to be known as the Director's Award For Distinguished Public Safety Service (‘Director's Award’).”;

(2) in subsection (b)—
 (A) by striking paragraph (1); and
 (B) by striking “(2)”;
 (3) by striking subsections (c) and (d) and redesignating subsections (e), (f), and (g) as subsections (c), (d), and (e), respectively; and
 (4) in subsection (c), as so redesignated—
 (A) by striking paragraph (1); and
 (B) by striking “(2)”.

SEC. 9. CONSULTATION REQUIREMENT.

The Board shall consult with the Institute of Heraldry within the Department of Defense regarding the design and artistry of the Medal of Valor. The Board may also consider suggestions received by the Department of Justice regarding the design of the medal, including those made by persons not employed by the Department.

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking up the Public Safety Officer Medal of Valor Act, S. 39, which was introduced by Senator STEVENS, and its House counterpart, H.R. 802, which already passed the House of Representatives in March. I am proud to be a cosponsor of this important piece of legislation.

I congratulate Senator STEVENS for introducing the measure and thank him for his leadership. We had worked together on a number of law enforcement matters and the senior Senator from Alaska is a stalwart supporter of the men and women who put themselves at risk to protect us all. I looked forward to enactment of this measure and to seeing the extraordinary heroism of our police, firefighters and correctional officers recognized with the Medal of Valor.

On May 18, 1999, I was privileged to be on the floor of the Senate when we proceeded to consider S. 39 and passed it unanimously. I took that occasion to commend Senator STEVENS and all who had worked so hard to move this measure in a timely way. That was almost two years ago, during National Police Week of 1999. The measure was sent to the House where it lay dormant for the rest of the last Congress. That delay was most unfortunate.

Again, in this Congress, I have worked with Senator STEVENS, Senator HATCH, and others to perfect the final version of this bill and finally get it enacted into law. We have crafted bipartisan improvements to ensure that the Medal of Valor Board will work effectively and efficiently with the National Medal of Valor Office within the Department of Justice. Our legislation should establish both of these entities and it is essential that they work well together to design the Medal of Valor and to create the criteria and procedures for recommendations of nominees for the award. The men and women who will be honored by the Medal of Valor for their brave deeds deserve nothing less.

I look forward to the President signing the Public Safety Officer Medal of Valor Act into law.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 39), as amended, was read the third time and passed.

JAMES GUELFF AND CHRIS MCCURLEY BODY ARMOR ACT OF 2001

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 38, S. 166.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 166) to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “James Guelff and Chris McCurley Body Armor Act of 2001”.

SEC. 2. FINDINGS.

Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 1,200 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of

the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

SEC. 3. DEFINITIONS.

In this Act:

(1) *BODY ARMOR.*—The term “body armor” means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) *LAW ENFORCEMENT AGENCY.*—The term “law enforcement agency” means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) *LAW ENFORCEMENT OFFICER.*—The term “law enforcement officer” means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

SEC. 4. AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.

(a) *IN GENERAL.*—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18, United States Code) or drug trafficking crime (as defined in section 924(c) of title 18, United States Code) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.

(b) *SENSE OF CONGRESS.*—It is the sense of Congress that any sentencing enhancement under this section should be at least 2 levels.

SEC. 5. PROHIBITION OF PURCHASE, USE, OR POSSESSION OF BODY ARMOR BY VIOLENT FELONS.

(a) *DEFINITION OF BODY ARMOR.*—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(35) The term ‘body armor’ means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.”.

(b) *PROHIBITION.*—

(1) *IN GENERAL.*—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

“§931. Prohibition on purchase, ownership, or possession of body armor by violent felons

“(a) *IN GENERAL.*—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

“(1) a crime of violence (as defined in section 16); or

“(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

“(b) *AFFIRMATIVE DEFENSE.*—

“(1) *IN GENERAL.*—It shall be an affirmative defense under this section that—

“(A) the defendant obtained prior written certification from his or her employer that the defendant's purchase, use, or possession of body

armor was necessary for the safe performance of lawful business activity; and

"(B) the use and possession by the defendant were limited to the course of such performance.

"(2) EMPLOYER.—In this subsection, the term 'employer' means any other individual employed by the defendant's business that supervises defendant's activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business."

(2) CLERICAL AMENDMENT.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

"931. Prohibition on purchase, ownership, or possession of body armor by violent felons."

(c) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

"(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both."

SEC. 6. DONATION OF FEDERAL SURPLUS BODY ARMOR TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) DEFINITIONS.—In this section, the terms "Federal agency" and "surplus property" have the meanings given such terms under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(b) DONATION OF BODY ARMOR.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the head of a Federal agency may donate body armor directly to any State or local law enforcement agency, if such body armor—

- (1) is in serviceable condition;
- (2) is surplus property; and
- (3) meets or exceeds the requirements of National Institute of Justice Standard 0101.03 (as in effect on the date of enactment of this Act).

(c) NOTICE TO ADMINISTRATOR.—The head of a Federal agency who donates body armor under this section shall submit to the Administrator of General Services a written notice identifying the amount of body armor donated and each State or local law enforcement agency that received the body armor.

(d) DONATION BY CERTAIN OFFICERS.—

(1) DEPARTMENT OF JUSTICE.—In the administration of this section with respect to the Department of Justice, in addition to any other officer of the Department of Justice designated by the Attorney General, the following officers may act as the head of a Federal agency:

(A) The Administrator of the Drug Enforcement Administration.

(B) The Director of the Federal Bureau of Investigation.

(C) The Commissioner of the Immigration and Naturalization Service.

(D) The Director of the United States Marshals Service.

(2) DEPARTMENT OF THE TREASURY.—In the administration of this section with respect to the Department of the Treasury, in addition to any other officer of the Department of the Treasury designated by the Secretary of the Treasury, the following officers may act as the head of a Federal agency:

(A) The Director of the Bureau of Alcohol, Tobacco, and Firearms.

(B) The Commissioner of Customs.

(C) The Director of the United States Secret Service.

(e) NO LIABILITY.—Notwithstanding any other provision of law, the United States shall not be liable for any harm occurring in connection with the use or misuse of any body armor donated under this section.

Mrs. FEINSTEIN. Mr. President, I rise in support of Senate passage of the James Guelff and Chris McCurley Body Armor Act. This bill is named after

two police officers who were killed in the line of duty by criminal assailants wearing body armor.

I thank Senator SESSIONS, Senator HATCH, and Senator LEAHY, among others, for working so diligently with me to craft and pass this bipartisan legislation.

I would also like to recognize Lee Guelff, brother of James Guelff, as well as the many other individuals who worked tirelessly on behalf of this legislation.

I introduced this legislation almost six years ago in response to the death of San Francisco police officer James Guelff. On November 13, 1994, Officer Guelff responded to a distress call. Upon reaching the crime scene, he was fired upon by a heavily armed suspect who was shielded by a kevlar vest and bulletproof helmet. Officer Guelff died in the ensuing gunfight.

The James Guelff and Chris McCurley Body Armor Act is designed to deter criminals from wearing body armor, and to distribute excess Federal body armor to local police.

Lee Guelff, brother of Officer James Guelff, wrote to me about the need to revise the laws relating to body armor. He wrote:

It's bad enough when officers have to face gunmen in possession of superior firepower . . . But to have to confront suspects shielded by equal or better defensive protection as well goes beyond the bounds of acceptable risk for officers and citizens alike. No officer should have to face the same set of deadly circumstances again.

I strongly agree with Lee.

The legislation has three key provisions. First, it directs the U.S. Sentencing Commission to provide an appropriate sentencing enhancement for any crime of violence or drug trafficking crime in which the defendant used body armor.

Second, it makes it unlawful for a person who has been convicted of a violent felony to purchase, own, or possess body armor.

It is unconscionable that current laws permit felons to obtain and wear body armor without restriction when so many of our police lack comparable protection.

Finally, the bill enables Federal law enforcement agencies to donate surplus body armor (approximately 10,000 vests) directly to local and state police departments;

Far too many of our local police officers do not have access to body armor. The United States Department of Justice estimates that 25% of State, local, and tribal law enforcement officers, approximately 150,000 officers, are not issued body armor.

Getting our police officers more body armor will save lives.

According to the Federal Bureau of Investigation, more than 30% of the 1,200 officers killed by guns in the line of duty since 1980 could have survived if they wore body armor.

This bill has the support of organizations representing 500,000 law enforcement personnel nationwide including: Fraternal Order of Police; National Association of Police Organizations; National Sheriff's Association; National Troopers Coalition; International Association of Police Chiefs; Federal Law Enforcement Officers Assn; Police Executive Research Forum; International Brotherhood of Police Officers; Major City Chiefs; and National Assn. Black Law Enforcement Executives.

Once again, I commend the Senate for passing this important and long overdue legislation.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 166), as amended, was read the third time and passed.

COMMEMORATING AND ACKNOWLEDGING THE DEDICATION AND SACRIFICE MADE BY LAW ENFORCEMENT OFFICERS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 39, S. Res. 63.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 63) commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. LEAHY. Mr. President, I am proud to be an original cosponsor of this resolution to honor our Federal, State and local law enforcement officers who gave the ultimate sacrifice for our public safety. I commend Senator CAMPBELL for his leadership in submitting Senate Resolution 63.

I want to recognize the other cosponsors of the resolution on the Senate Judiciary Committee: Senators HATCH, KENNEDY, THURMOND, BIDEN, GRASSLEY, KOHL, DEWINE, FEINSTEIN, SESSIONS, FEINGOLD, BROWNBACK, SCHUMER, MCCONNELL, and DURBIN.

Since my time as a State prosecutor, I have always taken a keen interest in law enforcement in Vermont and around the country. Vermont has the reputation of being one of the safest States in which to live, work and visit, and rightly so. In no small part, this is due to the hard work of those who have